

C3  
amended

deposit is made. This deposit of Hybrid Maize Line 38T27 will be maintained without restriction in the ATCC Depository, which is a public depository, for a period of 30 years, or 5 years after the most recent request, or for the enforceable life of the patent, whichever is longer, and will be replaced if it ever becomes nonviable during that period. Applicant has no authority to waive any restrictions imposed by law on the transfer of biological material or its transportation in commerce. Applicant does not waive any infringement of its rights granted under this patent or under the Plant Variety Protection Act (7 USC 2321 et seq.) which may protect Hybrid Maize Line 38T27.

#### In the Claims

Please amend claims 1, 5-8, 11-12, 15-16, 19, 21, 24-25, 28-29 and 32 as follows:

C4

Sub E1

1. (Amended)

Hybrid maize seed designated 38T27, representative seed of said hybrid 38T27 having been deposited under ATCC accession number PTA-4270.

Sub E1

5. (Amended)

A tissue culture of regenerable cells of a hybrid maize plant 38T27, representative seed of said hybrid maize plant 38T27 having been deposited under ATCC accession number PTA-4270.

C5

6. (Amended)

The tissue culture according to claim 5, the cells or protoplasts of said cells having been isolated from a tissue selected from the group consisting of leaves, pollen, embryos, roots, root tips, anthers, silks, flowers, kernels, ears, cobs, husks, and stalks.

Sub E1

7. (Amended)

A maize plant, or its parts, regenerated from the tissue culture of claim 5 and capable of expressing all the morphological and physiological characteristics of hybrid maize plant 38T27, representative seed having been deposited under ATCC accession number PTA-4270.

8. (Amended)

The maize plant of claim 2 wherein said plant further comprises a genetic factor conferring male sterility.

11. (Amended)

A maize plant, or its parts, wherein at least one ancestor of said maize plant is the maize plant, or its parts, of claim 2, wherein said maize plant has derived at least 50% of its alleles from 38T27 and is capable of expressing a combination of at least two 38T27 traits which are not significantly different than 38T27, said traits selected from the group consisting of: a relative maturity of approximately 96 based on the Comparative Relative Maturity Rating System for harvest moisture of grain, yield potential, dry down, late season plant health, yield performance under seasonal drought and high temperature stress, test weight, grain quality, resistance to Fusarium Ear Rot, silage yield potential with readily available energy and whole plant digestability, resistance to head smut, and resistance to Stewart's Wilt.

12. (Amended)

The hybrid maize plant according to claim 2, wherein the genetic material of said plant contains one or more transgenes.

15. (Twice Amended)

A maize plant, or its parts, wherein at least one ancestor of said maize plant is the maize plant, or its parts, of claim 12, wherein said maize plant has derived at least 50% of its alleles from 38T27 and is capable of expressing a combination of at least two 38T27 traits which are not significantly different than 38T27, said traits selected from the group consisting of: a relative maturity of approximately 96 based on the Comparative Relative Maturity Rating System for harvest moisture of grain, yield potential, dry down, late season plant health, yield performance under seasonal drought and high temperature stress, test weight, grain quality, resistance to Fusarium Ear Rot, silage yield potential with readily available energy and whole plant digestability, resistance to head smut, and resistance to Stewart's Wilt.

## 16. (Amended)

C9  
The hybrid maize plant according to claim 2, wherein the genetic material of said plant contains one or more genes transferred by backcrossing.

## 19. (Twice Amended)

C10  
A maize plant, or its parts, wherein at least one ancestor of said maize plant is the maize plant, or its parts, of claim 16, wherein said maize plant has derived at least 50% of its alleles from 38T27 and is capable of expressing a combination of at least two 38T27 traits which are not significantly different than 38T27, said traits selected from the group consisting of: a relative maturity of approximately 96 based on the Comparative Relative Maturity Rating System for harvest moisture of grain, yield potential, dry down, late season plant health, yield performance under seasonal drought and high temperature stress, test weight, grain quality, resistance to Fusarium Ear Rot, silage yield potential with readily available energy and whole plant digestability, resistance to head smut, and resistance to Stewart's Wilt.

## 21. (Amended)

C11  
The maize plant of claim 20 wherein said maize plant further comprises a generic factor conferring male sterility.

## 24. (Twice Amended)

C12  
A maize plant, or its parts, wherein at least one ancestor of said maize plant is the maize plant, or its parts, of claim 20, wherein said maize plant has derived at least 50% of its alleles from 38T27 and is capable of expressing a combination of at least two 38T27 traits which are not significantly different than 38T27, said traits selected from the group consisting of: a relative maturity of approximately 96 based on the Comparative Relative Maturity Rating System for harvest moisture of grain, yield potential, dry down, late season plant health, yield performance under seasonal drought and high temperature stress, test weight, grain quality, resistance to Fusarium Ear Rot, silage yield potential with readily available energy and whole plant digestability, resistance to head smut, and resistance to Stewart's Wilt.

## 25. (Amended)

C13  
The hybrid maize plant according to claim 20, wherein the genetic material of said plant contains one or more transgenes.

## 28. (Twice Amended)

C14  
A maize plant, or its parts, wherein at least one ancestor of said maize plant is the maize plant, or its parts, of claim 25, wherein said maize plant has derived at least 50% of its alleles from 38T27 and is capable of expressing a combination of at least two 38T27 traits which are not significantly different than 38T27, said traits selected from the group consisting of: a relative maturity of approximately 96 based on the Comparative Relative Maturity Rating System for harvest moisture of grain, yield potential, dry down, late season plant health, yield performance under seasonal drought and high temperature stress, test weight, grain quality, resistance to Fusarium Ear Rot, silage yield potential with readily available energy and whole plant digestability, resistance to head smut, and resistance to Stewart's Wilt.

## 29. (Amended)

C15  
The hybrid maize plant according to claim 20, wherein the genetic material of said plant contains one or more genes transferred by backcrossing.

## 32. (Twice Amended)

C16  
A maize plant, or its parts, wherein at least one ancestor of said maize plant is the maize plant, or its parts, of claim 29, wherein said maize plant has derived at least 50% of its alleles from 38T27 and is capable of expressing a combination of at least two 38T27 traits which are not significantly different than 38T27, said traits selected from the group consisting of: a relative maturity of approximately 96 based on the Comparative Relative Maturity Rating System for harvest moisture of grain, yield potential, dry down, late season plant health, yield performance under seasonal drought and high temperature stress, test weight, grain quality, resistance to Fusarium Ear Rot, silage yield potential with readily available energy and whole plant digestability, resistance to head smut, and resistance to Stewart's Wilt.

Please add new claims 33 - 42 as follows:

33. (New)

Sub DR  
C17  
A method of making a hybrid maize plant designated 38T27 comprising:  
crossing an inbred maize plant GE533329, deposited as PTA-4343 with a second inbred maize  
plant GE501400, deposited as PTA-3187; and  
developing from the cross a hybrid maize plant representative seed of which having been  
deposited under ATCC Accession Number PTA-4271.

34. (New)

A method of making an inbred maize plant comprising:  
obtaining the plant of claim 2 and  
applying double haploid methods to obtain a plant that is homozygous at essentially every locus,  
said plant having received all of its alleles from maize hybrid plant 38T27.

35. (New)

A method for producing an 38T27 progeny maize plant comprising:  
(a) growing the plant of claim 2, and obtaining self or sib pollinated seed therefrom; and  
(b) producing successive filial generations to obtain a 38T27 progeny maize plant.

36. (New)

A maize plant produced by the method of claim 35, said maize plant having received all  
of its alleles from hybrid maize plant 38T27.

37. (New)

A method for producing a population of 38T27 progeny maize plants comprising:  
(a) obtaining a first generation progeny maize seed produced by crossing the maize  
plant of claim 2 with a second maize plant;

(b) growing said first generation progeny maize seed to produce F<sub>1</sub> generation maize plants and obtaining self-pollinated seed from said F<sub>1</sub> generation maize plants; and

(c) repeating the steps of growing and harvesting successive filial generations to obtain a population of 38T27 progeny maize plants.

38. (New)

The population of 38T27 progeny maize plants produced by the method of claim 37, said population, on average, deriving at least 50% of its alleles from 38T27.

39. (New)

A 38T27 maize plant selected from the population of 38T27 progeny maize plants, produced by the method of claim 37, said maize plant deriving at least 50% of its alleles from 38T27.

40. (New)

The method of claim 37, further comprising applying double haploid methods to said F<sub>1</sub> generation maize plant or to a successive filial generation thereof.

41. (New)

A method of producing a male sterile maize plant comprising transforming the maize plant of claim 2 with a genetic factor conferring male sterility.

42. (New)

The method of claim 41 wherein a male sterile maize plant is produced.